

Application No. 09/941,151
Amendment and Response dated December 21, 2005
Reply to Advisory Action Dated October 18, 2005

Remarks

In the Advisory Action dated October 18, 2005, the Examiner indicated that the claims were allowable, but that the amendment after final rejection filed September 23, 2005, could not be entered because claim 115, as contained in the amendment, was dependent on a canceled claim. The amendment after final is hereby resubmitted with claim 115 canceled. The remarks below are from the previously submitted amendment after final rejection of September 23, 2005.

* * *

The present amendment (1) cancels claim 114 to moot the rejection of that claim under section 112, and (2) amends claim 51 to overcome the objection to that claim. It is respectfully requested that these amendments be entered, at least for purposes of appeal.

Applicant further requests that the examiner reconsider the remaining rejections for the following reasons:

(1) The rejection of claim 116 under 35 U.S.C. §112, first paragraph, appears to overlook the amendment to the specification filed October 18, 2004, which was requested by and entered by the examiner. The amendment provides antecedent basis for the claim language which fully supports claim 116.

(2) The statement by the examiner under *Response to Arguments* in the final rejection that “teaching of ‘observation of the image’ is in fact the same as viewing the displayed images” overlooks that the reference “observes” the “final tooth arrangement”. Feedback information would be irrelevant after the final arrangement is reached. Applicant’s claim 111, Chishti’s *final* tooth positions become applicant’s *suggested* tooth positions. While Chishti merely notes that the final positions can be observed, with applicant’s suggested positions, there is more to follow. Applicant’s claim 111 “communicates feedback information in response to the viewing of the displayed images”, and “provides the custom orthodontic appliance * * * in accordance with the feedback information”. In the Chishti reference, this “observation of the image” is not followed by feedback information in response to viewing that image. Therefore, the reference lacks the claimed steps. To illustrate:

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The Chishti et al. reference 5,975,893	Applicant's claim 111
<i>Initial</i> tooth positions	“... three-dimensional information of the shapes of the teeth of the patient”
Visual image is displayed	[the 3-D information may or may not be displayed]
match prescription and thereby produce <i>final</i> tooth positions	“... <i>suggested</i> tooth positions based on the three-dimensional information”
The final tooth positions can be observed in the visual image.	“displaying images of the teeth of the patient * * * in the suggested tooth positions and orientations * * *; viewing the displayed images”
[There is <u>NO</u> feedback in response to the viewing of the images in the final positions.]	“communicating <i>feedback information</i> in response to the viewing of the displayed images”
Appliance is provided based on the <i>final</i> tooth positions. [No feedback information in response to the viewing of the final positions is considered.]	Appliance is provided “based on the <i>suggested</i> tooth positions and orientations <u>in accordance with the feedback information.</u> ”

Accordingly, following the observation of the displayed final or suggested positions, Chishti produces the appliance without further opportunity for feedback or change to the positions, while applicant's claim 111 provides for communication of feedback information and provides the appliance in accordance with the feedback. This provides the opportunity for the orthodontist to

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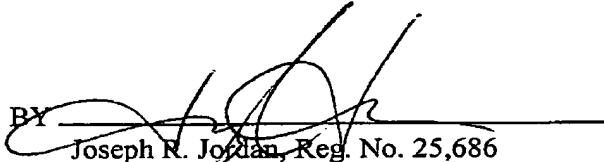
approve or make changes to the positions before the appliance is made (e.g., claims 50, 57, etc). The examiner is therefore asked to reconsider the rejection.

Whether or not the examiner reconsiders the rejection, it is respectfully requested that the above amendments, which deal with the 112 issues, be entered to place the application in better condition for appeal.

Applicants enclose a Petition for Extension of Time, which includes authorization to charge deposit account No. 23-3000 in the amount of \$120. Applicants believe that no other fees are due in connection with this submission. However, if an additional extension is due or any other fees are necessary, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

Respectfully submitted,

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